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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

TERRELL PATTERSON,

Defendant and Appellant.

B276776

(Los Angeles County
Super. Ct. No. BA111254)

APPEAL from an order of the Superior Court of Los Angeles County, Norm Shapiro, Judge. Affirmed.

Stephane Quinn, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On January 22, 1996, defendant and appellant Terrell Patterson was convicted of carjacking with a firearm use enhancement (Pen. Code, §§ 215, 12022.5)¹ At a separate court trial, prior serious felony conviction and prior prison term allegations were found true (§§ 667, subds. (a)-(i), 667.5) He was sentenced to a prison term of 27 years.

Following the enactment of Proposition 47, Patterson filed a petition to have his felony conviction designated as a misdemeanor.² On July 11, 2016, the trial court denied Patterson's petition on the ground he was not eligible for Proposition 47 relief given the nature of his conviction. Patterson timely appealed from the order of denial.

We appointed counsel to represent Patterson on appeal. After reviewing the record, counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441. We directed counsel to send the record on appeal and a copy of the opening brief to Patterson, who filed a supplemental brief on March 10, 2017.

We have examined the record and determined the trial court was correct in finding that Patterson is not eligible to have his carjacking conviction designated as a misdemeanor because carjacking is not one of the crimes affected by Proposition 47.

Proposition 47, enacted by voters on November 4, 2014, and effective the following day, reduces certain drug and theft offenses to misdemeanors unless committed by ineligible

¹ All further references are to the Penal Code unless otherwise specified.

² Patterson's petition is not part of the record on appeal.

defendants. (*People v. Lynall* (2015) 233 Cal.App.4th 1102, 1108.) Proposition 47 provides, in pertinent part: “(a) A person who, on November 5, 2014, was serving a sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under the act that added this section (“this act”) had this act been in effect at the time of the offense may petition for a recall of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing in accordance with Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those sections have been amended or added by this act.” (§ 1170.18, subd. (a).) Section 1170.18, subdivision (f) provides: “A person who has completed his or her sentence for a conviction, whether by trial or plea, of a felony or felonies who would have been guilty of a misdemeanor under this act had this act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the felony conviction or convictions designated as misdemeanors.”

In his supplemental brief, Patterson requests that he be allowed to raise various “new claims for [the] first time.” We decline to consider these new claims on appeal because they are unrelated to the trial court decision he is appealing. Patterson also complains the trial court erred by failing to recognize that he was petitioning for relief under both Proposition 47 and Proposition 57. “Proposition 57 . . . changed parole eligibility for both adults *and* juveniles tried in adult court. It added section 32 to article I of the California Constitution, which provides: ‘Any person convicted of a nonviolent felony offense and sentenced to state prison shall be eligible for parole consideration after

completing the full term for his or her primary offense.’ (Cal. Const., art. I, § 32, subd. (a)(1).)” (*People v. Mendoza* (2017) 10 Cal.App.5th 327, 343–344.) However, carjacking with use of a firearm is not a nonviolent felony offense.

We are satisfied that appellate counsel has fully complied with his responsibilities and that no arguable appellate issue exists. (*Smith v. Robbins* (2000) 528 U.S. 259, 278 [120 S.Ct. 746]; *People v. Kelly* (2006) 40 Cal.4th 106, 110.)

DISPOSITION

The trial court’s order is affirmed.

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EDMON, P. J.

We concur:

LAVIN, J.

JOHNSON (MICHAEL), J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.